



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

8

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,311	12/07/2001	John D. McLemore	31312R010	7928

7590 06/02/2003

SMITH, GAMBRELL & RUSSELL, LLP
ATTORNEYS AT LAW
SUITE 800
1850 M STREET, N.W.
WASHINGTON, DC 20036

EXAMINER	
ALEXANDER, REGINALD	
ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 06/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s) <i>Dpm S</i>	
	10/005,311	MCLEMORE, JOHN D.	
	Examiner Reginald L. Alexander	Art Unit 1761	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>16 April 2003</u> .			
2a) <input checked="" type="checkbox"/> This action is FINAL.		2b) <input type="checkbox"/> This action is non-final.	
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-54</u> is/are pending in the application.			
4a) Of the above claim(s) _____ is/are withdrawn from consideration.			
5) <input checked="" type="checkbox"/> Claim(s) <u>1-13, 15-27, 31-39, 53 and 54</u> is/are allowed.			
6) <input checked="" type="checkbox"/> Claim(s) <u>14, 28-30, 40, 42-47 and 49-52</u> is/are rejected.			
7) <input checked="" type="checkbox"/> Claim(s) <u>41 and 48</u> is/are objected to.			
8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.			
Application Papers			
9) <input type="checkbox"/> The specification is objected to by the Examiner.			
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p>			
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p>			
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.			
Priority under 35 U.S.C. §§ 119 and 120			
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).			
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). <p style="margin-left: 20px;">* See the attached detailed Office action for a list of the certified copies not received.</p>			
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.			
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.			
Attachment(s)			
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____	
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)	
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> .		6) <input type="checkbox"/> Other: _____	

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

47

five Barbara

Claims 14, ~~21, 22 and 25~~ are rejected under 35 U.S.C. 103(a) as being,

~~28, 29, 30, 40, 41, 42, 43~~

unpatentable over Rains in view of Rigney.

~~44, 45, 46, 49, 50, 51, 52~~

There is disclosed in Rains a cooking device, comprising a perforated basket "C"; a bailing handle "H" engaged with the basket; a cooking pot "A"; and a basket support (capture device) "S" for engaging an upper edge of the cooking pot. In regards to the "grasp hook capture portion" recited in claim 1, it is evident that the bailing handle has a portion which can be grasp by a hook. No specific structural arrangement has be defined by the recitation.

Rains discloses the claimed subject matter except for a flow/no-flow drain off device. Rigney discloses that it is known in the art to provide a flow/no-flow drain off valve 26 at the lower end of a cooking pot. It would have been obvious to one skilled in the art to provide the cooking pot of Rains with the drain off valve disclosed in Rigney, in order to remove liquid from the pot without having to carry or tilt the pot.

Allowable Subject Matter

~~28, 29, 30~~

Claims 1-13, 15-27, 31-39, 53 and 54 are allowed.

40

0
41
40

42-47

49-52

Claims ~~41~~ and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed April 16, 2003 have been fully considered but they are not persuasive. Applicant argues that one of ordinary skill in the art would not modify the Rains apparatus due to its shape and use. It has been held that the test of obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of references makes obvious to one of ordinary skill in the pertinent art. The teaching of a drain valve for a cooking vessel is shown in Rigney to be known in the art. The use of a drain valve to allow for the easy removal of a cooking liquid from a vessel is also made clear in Rigney.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 703-308-1594. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

rla
June 2, 2003

Reginald L. Alexander
Primary Examiner
Art Unit 1761
Reginald L. Alexander